

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEE SCOTT ROBAR,

Defendant-Appellant.

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UNPUBLISHED

March 15, 2005

No. 251780

Muskegon Circuit Court

LC No. 02-048259-FH

Before: Murray, P.J., and Markey and O'Connell, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted from his sentence of 10 to 30 years in prison imposed on his plea-based conviction of delivery of 50 grams or more but less than 225 grams of cocaine, MCL 333.7401(2)(a)(iii). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On March 6, 2003, defendant pleaded guilty of delivery of 50 grams or more but less than 225 grams of cocaine. At the time he was charged, the offense carried a mandatory minimum sentence of ten years in prison, but the statute, MCL 333.7401, was amended by 2002 PA 665, effective March 1, 2003. The amendment established an entirely new offense and sentencing scheme. Currently, the offense of delivery of 50 grams or more but less than 450 grams of cocaine is not subject to a mandatory minimum. MCL 333.7401(2)(a)(iii)(as amended).

Defendant argues that he is entitled to be resentenced under the amended version of MCL 333.7401. We disagree and affirm. The amended statutory scheme in MCL 333.7401 applies only to offenses committed on or after March 1, 2003. *People v Thomas*, 260 Mich App 450, 458-459; 678 NW2d 631 (2004); *People v Doxey*, 263 Mich App 115, 123; 687 NW2d 360 (2004). Therefore, the trial court correctly sentenced him to the statutorily mandated minimum.

Defendant also argues that the Department of Corrections is applying MCL 791.234(12) incorrectly, which threatens to deny him an opportunity for early parole. However, any challenge to the department's procedures must be raised in an appropriate administrative proceeding. See *People v Watts*, 186 Mich App 686, 687 n 1; 464 NW2d 715 (1991). We also note that this claim is not ripe yet because defendant has not completed five years of his sentence. MCL 791.234(12).

Affirmed.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Peter D. O'Connell